

Group III: Claims 39-40, and 42, drawn to a method of screening for neoplastic cells using as a probe an antibody; and

Group IV: Claims 41, 43, and 44, drawn to a method of inhibiting the proliferation of cancer cells.

In response to this restriction requirement, Applicants provisionally elect Group I, claims 1-23, with traverse.

Applicants submit that restriction between Groups I, II and III is unnecessary. Applicants respectfully remind the Examiner restriction is *discretionary and not mandatory*. "If the search and examination of an entire application can be made *without serious burden*, the examiner *must* examine it on the merits, *even though it includes claims to distinct or independent inventions*." M.P.E.P. §803.

In the instant case, the claims of Groups I, II, III, and IV is unnecessary. The claims of Group I are drawn to isolated nucleic acid molecules, which can be used as probes, while the claims of Group II are drawn to methods of screening for neoplastic cells generally using the probes recited in the claims of Group I. A search for prior art pertaining to the nucleic acid sequences is expected to identify any prior art, if such exists, pertaining to the uses of the nucleic acid sequences. Accordingly, a search for prior art relevant to Group I entails no greater burden than a search for prior art relevant to Group II and Groups I and II can be examined together without serious burden.

Similarly, the claims of Groups II and III are both drawn to methods of screening cells utilizing as target moieties the recited nucleic acid sequences or polypeptides expressed by the recited sequences (SEQ ID NO: 1-12). The claims of Group IV are drawn to methods involving inhibiting the gene product of a gene having one or more of the identified sequences. A search for prior art pertaining to the nucleic acid sequences is expected to identify any prior art, if such exists, pertaining to the polypeptides expressed by these sequences and to inhibition of the activity of the gene product of these sequences. Accordingly, a search for prior art relevant to Group II entails no greater burden than a search for prior art relevant to Group III or Group IV and Groups II, III, and IV can be examined together without serious burden.

Gray *et al.*

Serial No. 08/731,499

Page 3

In view of the foregoing, Applicants respectfully request that the restriction between Groups I and II be withdrawn. Applicants further request that the restriction between Groups II, III, and IV be withdrawn.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (415) 576-0200.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Tom Hunter".

Tom Hunter

Reg. No. 38,498

TOWNSEND and TOWNSEND and CREW, LLP

Two Embarcadero Center, 8th Floor

San Francisco, California 94111-3834

(415) 576-0200

TAH

encl: